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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,382	04/01/2004	Larry G. Ingraham	44018-0002	8271

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,382	<b>Applicant(s)</b> INGRAHAM, LARRY G.	
	<b>Examiner</b> Cassandra Davis	<b>Art Unit</b> 3611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-18 and 20-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-18 and 20-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 30-32 have been renumbered 29-31. ***Claim***

### ***Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25-28, are rejected under 35 U.S.C. 102(b) as being anticipated by Nemzin et al., U. S. Patent 5,223,316.

3. Nemzin teaches a support frame for predetermined characters comprising a 3-D element 12 having a hanger tab 30 for adhering the support frame to a wall, a signage donor element 26 and 24. The support frame and the donor elements are made from the same resilient plastic material and are colors contrasting so that the characters can be easily distinguished from the associate holders.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-16 and 20, 21, 23, 24 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Studen U. S. Patent 3,280,499 in view of Nemzin et al., U. S. Patent 5,223,316.

6. Studen teaches a device comprising a three-dimensioned element defining a signage recipient base element (blank 2) and a plurality of signage donor element (portions 14-22), wherein the base element has a plurality of apertures 5-13. The base 2 and donor elements 14-22 are

constructed of expanded polyethylene such that the donor element frictionally fit with the apertures 5-13 of the base 2. The friction fit corresponds to the claimed snap-in fit. The donor element has a color different than the color of the base. See column 1, lines 48-55. Nemzin teaches a support frame for predetermined characters comprising a 3-D element 12 having a hanger tab 30 for adhering the support frame to a wall, a signage donor element 26 and 24. The support frame and the donor elements are made from the same resilient plastic material and are colors contrasting so that the characters can be easily distinguished from the associate holders. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the device taught by Studen with an adhesive holder as taught by Nemzin to provide means to support the device upon a wall.

7. With respect to claim 13, Studen teaches the donor element comprises a plurality of sub-parts (each indivisible punched portion 5-13 and the stencil-like portion or apertures comprises a plurality of separate sub-portions 14-22, with each sub-portion or aperture of the base element having inserted therein one of the donor element sub-parts.

8. With respect to claim 14-16, Studen teaches the color of the donor elements is different than the base element.

9. With respect to claims 20, 21, 23, 34, since the specific indicia does not have an unobvious functional relationship with the signage donor element, it appears that any suitable indicia/indication/message would perform equally well in conveying a desired message.

10. Claims 17 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Studen in view of Nemzin as applied to claim 12 above and in view of Forbes et al., U. S. Patent 6,626,678. Forbes et al teaches a base 42, a frame 43 secured to the base and having a plurality of apertures and a plurality of tiles 44 adapted to fit within the apertures. Each tile has a layer of soft fabric with different tactility. Forbes also teaches that each tile is distinguishable by color or by the presence of indicia on the textured surfaces. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the device taught by Studen and Nemzin with each donor element further be distinguishable by tactility, color, or indicia to provide a means identify one donor or tile element from another.

11. With respect to claims 29-31, since the applicant does not disclose that indicia with phosphorescent, glitter, or photo-luminescent solves any stated problem or is for any particular purpose, it appears that constructing the indicia with any suitable material which contrast with the base or support surface would perform equally well in conveying a desired message.

12. Claim 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright, U. S. Patent 2,535,619 in view of Studen.

13. Wright teaches a toy comprising a base member 10 having a plurality of cutouts and a plurality of donor element or segments 11, wherein each segment has a different thickness than the base member. Studen teaches a device with frictionally fit donor element. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the toy taught by Wright with the donor member made of a polyethylene material as taught by Studen to provide a friction fit or snap fit between the donor element and the base.

With respect to claim 12, since the toy taught by Wright is adapted to be placed on a table, the examiner contends the toy is also adapted or configured to be placed on a floor.

***Response to Arguments***

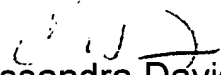
14. Applicant's arguments with respect to claims 12 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
November 27, 2006